

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

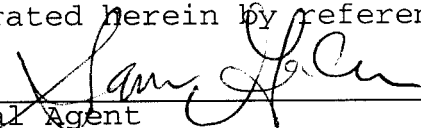
'08 MJ 8210

UNITED STATES OF AMERICA ) Magistrate Case No.:  
 )  
Plaintiff, ) COMPLAINT FOR VIOLATION OF  
 )  
v. ) 21 U.S.C. § 952 and 960  
 ) Importation of a Controlled  
Virginia SOTO-CUEVAS (1) ) Substance (Felony)  
Ernestina Antonia FRANCO (2) )  
 )  
Defendants. )

The undersigned complainant being duly sworn states:

That on or about March 8, 2008, within the Southern District of California, defendants Virginia SOTO-CUEVAS and Ernestina Antonia FRANCO, did knowingly and intentionally import approximately 33.08 kilograms (72.78 pounds) of marijuana, a Schedule I Controlled Substance, into the United States from a place outside thereof, in violation of Title 21, United States Code, Section 952 and 960.

The complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

  
Special Agent  
U.S. Immigration & Customs  
Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 10<sup>TH</sup>  
DAY OF MARCH 2008.

  
Pete C. Lewis  
UNITED STATES MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

2 v.

3 Virginia SOTO-CUEVAS (1)

4 Ernestina Antonia FRANCO (2)

5 STATEMENT OF FACTS

6 This complaint is based on the reports, documents, and notes furnished to U. S. Immigration  
7 and Customs Enforcement Special Agent Vincent McDonald.

8 On March 8, 2008, at approximately 2111 hours, Virginia SOTO-CUEVAS, entered the U. S.  
9 from the Republic of Mexico via the Calexico West, CA Port of Entry. CUEVAS was the driver of  
10 a 1999 Ford Windstar and was accompanied by her boyfriend's daughter, Ernestina Antonia  
11 FRANCO.

12 Customs & Border Protection Officer (CBPO) C. Estrada was conducting primary  
13 inspections on primary lane #4. Both occupants applied for entry as U. S. citizens. CBPO C.  
14 Estrada obtained a negative Customs declarations from CUEVAS and FRANCO. CUEVAS stated  
15 they went to Mexico to visit her aunt for the day. CBPO C. Estrada asked CUEVAS if she owned  
16 the vehicle. CUEVAS stated her aunt purchased the vehicle for her approximately two months prior,  
17 but the registration was still not in her name. CBPO C. Estrada observed CUEVAS hesitating when  
18 answering questions and avoiding eye contact. CBPO C. Estrada referred CUEVAS, FRANCO and  
19 the vehicle to vehicle secondary (VS) for further inspection.

20 In VS, CBPO E. Sabori approached the Ford Windstar and asked CUEVAS where they were  
21 going. CUEVAS stated they were going home to Indio. CBPO E. Sabori obtained a negative  
22 Customs declaration from CUEVAS. CUEVAS stated the vehicle belonged to her aunt. CBPO E.  
23 Sabori asked why they went to Mexico. CUEVAS claimed they went to Mexico to visit an aunt.  
24 CBPO E. Sabori inspected the vehicle and tapped on the gas tank. CBPO E. Sabori stated the gas  
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1 tank emitted a solid sound. CBPO E. Sabori asked CBPO E. Barroso to utilize his canine to inspect  
2 the Ford Windstar. CBPO E. Barroso utilized his canine inspecting the Ford Windstar and informed  
3 CBPO E. Sabori that his canine alerted to the vehicle.

4 CBPO E. Sabori continued to examine the vehicle and observed packages inside the rear  
5 driver's side sliding door. Further inspection of the Ford Windstar by CBPO E. Sabori uncovered  
6 four packages inside the driver's side sliding door, two packages inside the driver's side rear quarter  
7 panel, one package inside the passenger's side sliding door, three packages inside the rear  
8 passenger's side quarter panel, and twenty packages inside the gas tank. A total of thirty packages  
9 were extracted from the Ford Windstar. CBPO E. Sabori probed a package which produced a green,  
10 leafy substance. The substance was field-tested and tested positive for marijuana, a Schedule I  
11 Controlled substance. The combined weight of the thirty packages was 33.08 kilograms (72.78  
12 pounds).  
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15 CUEVAS and FRANCO were placed under arrest and advised of their constitutional rights  
16 pursuant Miranda. CUEVAS and FRANCO acknowledged those rights and waived them. CUEVAS  
17 and FRANCO were interviewed and provided contradictory statements.  
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19 CUEVAS stated to Special Agent Vincent McDonald that she did not know marijuana was  
20 inside the vehicle. CUEVAS admitted she lied to CBPO's about owning the vehicle. CUEVAS  
21 stated she was just doing a favor for an acquaintance she met at a nightclub named "Diego."  
22 CUEVAS claimed "Diego" had asked her to drive the vehicle across the border for him. CUEVAS  
23 claimed she and FRANCO arrived in Mexico from home driven by "Diego's" aunt who drive's a  
24 gold Ford F-150. CUEVAS claimed she obtained the vehicle from "Diego" and was instructed to  
25 drive to the "Avenue 54 Apartments" in Coachella, CA park the car and leave the keys inside the  
26 vehicle. CUEVAS claimed she would then contact "Diego" so his aunt would know the vehicle had  
27 arrived. CUEVAS stated she would then call her boyfriend to come and pick them up. CUEVAS  
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1 claimed she and FRANCO spent the day walking around Mexicali.

2 FRANCO stated to Special Agent Vincent McDonald that she did not know marijuana was  
3 inside the vehicle. FRANCO claimed to have seen CUEVAS driving the Ford Windstar prior to the  
4 arrest. FRANCO claimed CUEVAS has possessed the vehicle for a short period of time. FRANCO  
5 added the Ford Windstar is the same vehicle that they left the house driving destined to Mexico  
6 earlier in the day. FRANCO claimed she and CUEVAS were the only two people inside the vehicle.  
7 FRANCO claimed they went to CUEVAS's aunt's house and spent a very long time there.  
8 FRANCO stated she remembered seeing a man outside the house when they arrived. FRANCO  
9 claimed she was bored and spent a majority of the day waiting for CUEVAS at the aunt's house  
10 while CUEVAS and her aunt talked.  
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